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Between 'Justice' and 'Injustice': *Justice Populaire* in the Eastern DR Congo

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Extra-legal 'popular' violence, whereby citizens kill other citizens 'in the name of justice', has occurred all over the world, at different times and in different places. However, there is a much higher incidence of such practices in some contexts than in others. The present-day eastern DR Congo is one of those contexts. Whether through violent mobs, or through 'guns for hire', those who are perceived to be 'harming the community' are sometimes killed without judicial process, but in 'the name of justice'. How can we explain these violent practices? What do they tell us about the state of the justice and security apparatus in the eastern DR Congo? And what could be done to reduce the incidence of these irregular acts?

This policy brief looks into the causes of what in the eastern DR Congo is commonly called *justice populaire*.¹ Contrary to what is sometimes assumed, these incidents cannot only be ascribed to the malfunctioning state-led justice and security apparatus. Rather, they relate to a wider crisis of authority resulting in part from the eroding role of customary chiefs, religious leaders and elders. Other causes are the high level of social conflicts and the militarisation of society, which render violent responses seemingly adequate solutions to conflicts and other social problems. Additionally, *justice populaire* provides a

way in which groups with limited access to official political channels, in particular the youth, try to assert socio-political agency.

The multi-faceted nature of the causes of extra-legal violent 'justice' calls for multi-dimensional responses. It is only by reinforcing non-violent mechanisms of social and conflict regulation that this phenomenon can be diminished. In particular, the void created by the abolition of customary courts must be filled, and an open debate must be held about how to deal with accusations of sorcery. Furthermore, ways must be found to include in local decision-making those groups that feel alienated from the formal political and administrative domain.

Analysing *justice populaire*

Violent extra-legal 'justice' in the eastern DR Congo takes various forms. It often consists of a mob beating or stoning people to death and/or burning them alive, and is commonly accompanied by acts of property destruction, such as setting fire to houses and belongings. The targeted person may also be killed by a hired gunman, in which case the line between *justice populaire* and murder for private or political purposes becomes very thin. However, when born out of similar motives and perceived in a similar manner, such killings may still be considered as a form of *justice populaire*.

¹ A more in-depth discussion of *justice populaire* in the eastern DR Congo can be found in Verweijen (2015).

Crucially, the 'popular' nature of this type of practice is based on two logics. First, the person who is targeted is not seen simply as having harmed a single person or family, but rather 'the community' as a whole. Therefore, it is believed to be in the interest of this larger group to 'neutralise' the perceived threat. Second, the act of killing or other harm is either executed or approved by a large number of people, being seen for example as a punishment that is deserved, or as a way to restore harmony and order in the community. This 'approval' is, however, a highly complex notion, and often exists side by side with 'disapproval', moral doubts and the feeling that it is a 'necessary evil'. Feelings about *justice populaire* are generally ambivalent, and tend to differ widely across social groups. Moreover, although termed popular 'justice', opinions differ on whether or not it actually constitutes 'justice'. In fact, many Congolese see it as a problem, due to the cruel nature of the way death is inflicted, the suspicion that many innocent people are killed, and the undue usurping of the power to decide over life and death.

When looking at who is targeted by *justice populaire*, two categories predominate. The first is (suspected) criminals. These are often recidivists who have managed to avoid or escape justice, those caught in the act or those involved in crimes that provoke moral outrage. The latter may be due either to the nature of the offence, for example the rape of a minor, or to the nature of the victim, for example a locally well-known and popular figure. In some cases, the identity of the perpetrator also matters, such as when it concerns a member of the security services. In particular, Congolese army soldiers involved in criminal acts appear to be regularly targeted. The second category comprises (suspected) sorcerers. Suspicions of supernatural manipulation frequently surface in the case of unexpected deaths believed to be 'unnatural', for example those that involve young people. Responsibility for the death is often ascribed to relatives or neighbours, indicating that existing conflicts play an important role in sorcery-related accusations.

Suspicions of sorcery are disproportionally projected onto women and the elderly. At the same time, where mob justice is concerned, youths tend to be at the forefront of the action. This indicates that both gender-related and inter-generational tensions are at play in *justice populaire*. Although stereotyped as being 'weaker', women in the DR Congo are often also seen as 'dangerous', and are therefore suspected of sorcery. This does not imply that women do not make sorcery accusations themselves, or that they never endorse and incite extra-legal killings in the name of justice: they can be both victims and instigators. The elderly, for their part, appear to be often targeted

because the youth associate them with an established order against which they rebel. Not only do the youth consider current authority structures to be exclusionary, they also see them as deficient in providing public goods such as justice and security.

Malfunctioning state-organised justice and security services

The state-led justice and security services in the DR Congo function in a highly erratic manner. They have insufficient human and financial resources, suffer from deficient infrastructure and logistics, and are riddled with complex power structures, often causing them to act according to patronage logics and to extract resources from citizens (Eriksson Baaz and Olson, 2011). Such malfunctioning fosters extra-legal justice both directly and indirectly. One direct way is that perpetrators of crimes are often allowed to go free by the police or the judiciary, in return for payment or following pressure from those 'protecting' them. Others simply escape from prison in return for bribes or through prison breaks (Tekilazaya *et al.*, 2013). Thus, it is not uncommon for the same criminals to appear over and over again in the same community, angering inhabitants and fostering the belief that there is no other way to get rid of them than by killing them. The regular failure of security services to intervene effectively in cases of crime only serves to further nourish such beliefs.

The fact that it is seen as legitimate for citizens to get rid of criminals themselves is in part related to the deeply engrained idea of *auto-prise en charge* (taking care of oneself). This idea gained prominence in the 1980s, during the Zaire era, when public service provision and infrastructure decreased dramatically. As a consequence, people were forced to look after and organize themselves, taking over services previously provided by the state (De Villers *et al.*, 2002). The idea that taking matters into one's own hands is justified also relates to conflict resolution. Due to the erratic workings of the judiciary system, dealing with disputes is a slow, lengthy, and often expensive process. Moreover, it rarely yields an outcome that is accepted by all parties. At the same time, conflicts are omnipresent, whether related to land, family affairs, commercial competition, or positions of authority. This fuels a propensity among citizens for 'private justice', for instance soliciting armed actors to intimidate opponents so that they accept an imposed arrangement (Eriksson Baaz and Verweijen, 2014). While no direct link with extra-legal 'justice' can be established, it would seem to be the case that the engrained practice of seeking violent interventions does contribute to a fertile climate for this phenomenon.

Another way in which security agencies contribute to *justice populaire* is their frequent failure to intervene before, during, and after such killings. This may be for various reasons, including fear, incapacity and covert approval of the act, like when targeting recidivists. When present at the scene of violent events, the under-staffed and under-equipped police are often wary of intervening, not only because they would risk their own lives, but also for fear of creating more victims due to their lack of anti-riot gear, such as rubber bullets or tear gas. As the police commissioner of Bahema Sud (Ituri) explained: “To end this, we need a means of crowd control. Like teargas, helmets. Without such materiel, we have to use our weapons which is against our mission”.² But the role of the security services is not always as bleak as this. In some cases, they actively intervene to help prevent those targeted from being killed. This applies especially to the Congolese army. It is more numerous and stronger than the police force, and occasionally shelters potential victims within its camps or bases.

Eroding customary and spiritual authority

Where suspected sorcerers become the target of extra-legal violent ‘justice’, other dynamics than deficient justice and security services also come into play. One such dynamic is the erosion of the authority of those who are designated to handle accusations of sorcery, notably customary chiefs. In the past, people suspecting others of malicious supernatural dealings would first consult the elders and local chiefs, who would try to resolve the case by convening the accuser and the accused. If this did not bring about a solution, cases were referred to customary authorities at a higher level, where they were commonly treated by the customary courts in the first instance and then at chiefdom level. The chiefdom courts often required the accused to undergo a test conducted by seers designated by the *mwami* (customary chief), in order to ‘verify’ whether the accusations were true. If found guilty, the suspect would be excommunicated and would have to move to a different area.

Today, however, people bypass this customary system and go directly to ‘private’ seers (i.e. not designated by the chiefdom). There are various reasons for this. Firstly, chiefs are no longer believed to be able to deal with sorcery issues in an effective manner. While their privileged connection to the spirits of the ancestors is still believed to give them competence in this domain, the (perceived) intensification and changing nature of

sorcery are thought to have eroded that competence. Secondly, it may be cheaper, faster and easier to go to a ‘private’ seer than to follow procedures at chiefdom level, with the costs of the sorcery test organised by the chiefdom being especially inhibiting.

The disadvantages of addressing chiefs have become all the greater since the suppression of customary courts following the establishment of the *Tribunal de Paix (Tripaix)*, a lower-level court that can hear crimes punishable by up to five years in prison. While the establishment of the *Tripaix* was intended to ‘bring justice closer to the people’ and to increase accountability, in practice it has made justice less accessible and the judgement of customary matters more difficult to control. Importantly, while customary courts had a presence at the sub-division level of chiefdoms and sectors, the *Tripaix* is only present in bigger towns, thus forcing people to travel long distances. As a former court clerk of the customary tribunal in Lemera, located in the mountains of Uvira territory (South Kivu), explained: “People do not go to the *Tripaix* in Uvira [town]. It’s simply too far, they fear the transport costs and they are afraid to get malaria [which is not present in the mountains due to the colder climate]. Even the police because they have no means of transport they prefer to handle all affairs here locally.”³ Furthermore, while the *Tripaix* has a chamber for customary affairs, this chamber is not authorised to deal with sorcery, because this notion is not recognized by Congolese law.

As with the chiefs, the churches’ efforts to deal with sorcery cases are also believed to have become less effective. An important reason for this is the growing diversity of churches and sects. When people have different religious affiliations, it becomes more difficult for spiritual leaders to reconcile them, since they do not value the various leaders equally. Therefore, only a few spiritual leaders can act as moral authorities with influence over communities as a whole.

A thirst for socio-political agency

‘Youth’, here considered to be those between 15 and 35 years old, tends to be heavily involved in the execution of mob killings. The older generation often explain this as down to the alleged ‘rebellious’ character of the young who are said to no longer listen to the elders and to place themselves ‘above the law’. Moreover, since they have grown up in a violent environment, youths are believed to resort to, or approve of, violence more easily. As one local

² Interview, police commissioner, Kasenyi, 13. November.2013.

³ Interview, court clerk of customary tribunal of the Bafuliuru Chiefdom, Lemera, 12. May 2015.

authority in Rutshuru (North Kivu) explained: “Violence has become a culture here, a mentality. Youth growing up only know violence”.⁴ Of course, these discourses should be as carefully read as complaints about “the youth of today” in other contexts, which often stem more from the perceptions of the older generation than from a solid evidence base.

Rather than being necessarily violent, present-day youth in the eastern DR Congo do seem to be quite vocal. In particular in street protests and collective direct action they have found an important channel to make themselves visible and have their voices heard. For instance, in Uvira territory, youth have been the driving force behind protest actions such as barricading main roads and chasing away local authorities by blocking their office. In the city of Kiliba, where a similar incident happened, a youth stated: “Our authorities will not listen, only if you use force. Here [in the DR Congo] you have to impose yourself in order to realise something. They only understand the language of force”.⁵ This penchant for mass physical action should in part be seen in the light of limited alternative options for exercising socio-political influence, since access to political and administrative functions is heavily circumscribed for groups that face socio-economic and political marginalisation.

Politicians and local authorities appear to be aware of the collective power and political weight of youth, who constitute the demographic majority. As a result, they not only try to harness them for political purposes such as inciting street protests, but also refrain from openly confronting them, aware that having youth turn massively against them might weaken their power. This creates further incentives for youth to claim and demonstrate socio-political agency and to participate in practices of ‘order-making’ (Kyed, 2007:7). Extra-legal violent ‘justice’ may be seen as one such practice, especially when believed to ‘restore order’. In a sense, this mimics the behaviour of politicians, who equally manipulate violence to reinforce their positions.

Conclusions

The high incidence of *justice populaire* in the eastern DR Congo is a product of transformations in authority structures and the social fabric. These encompass malfunctioning state services, weakening customary and spiritual authority, and high levels of social conflict, including gender-related and inter-generational tensions. As a consequence, certain aspects of social regulation such as resolving disputes, tackling crime and dealing with accusations of witchcraft, have become more difficult. This creates both the incentives and the space for marginalised groups to mark and claim socio-political agency, and to provide alternative forms of social regulation, including by ‘taking the law into their own hands’.

Due to the multitude of factors at the root of *justice populaire*, addressing this phenomenon is challenging. In a sense, these violent practices emerge from the multifaceted malaise that immerses the eastern DR Congo as a whole. However, certain steps could be prioritized, such as reinforcing non-violent mechanisms of dispute resolution. In particular, it would be useful to reflect on how the void created by the abolition of customary courts might be filled. This could be through an extension of the *Tripaix* system, through the restoration and improvement of the customary courts - for example linking them to the future elected local councils - or through some other measure. Additionally, an open debate about sorcery and the ways in which accusations should be handled needs to be held. The fact that Congolese legislation does not recognise sorcery should not prevent consideration of the desirability and feasibility of measures to minimise violent reactions against the accused. Finally, it is important to find ways of including those who are currently excluded from political and administrative decision-making in the local public sphere, to give them visibility and a voice. Experience shows that it is only when people develop a stake in a non-violent social order that violent practices may diminish.

⁴ Interview, agent of *territoire* of Rutshuru, 7 April.2010.

⁵ Interview, youth, Kiliba, 4 November.2014, quoted in: Verweijen 2015, p. 353

Sources

Eriksson Baaz M and Olsson O.2011. Feeding the horse: Unofficial economic activities within the police force in the DR Congo. *African Security* 4(4): 223–241

Eriksson Baaz M and Verweijen J. 2014. Arbiters with guns: The ambiguity of military involvement in civilian disputes in the DR Congo. *Third World Quarterly* 35(5): 803–820

Kyed H. 2007. *State Recognition of Traditional Authority, Citizenship and State Formation in Rural Post-War Mozambique*. PhD Diss, Roskilde University Centre.

Tekilazaya K, Fataki wa Luhindi D, and Wets'hokonda Koso M. 2013. *République Démocratique du Congo. Le secteur de la justice et l'état de droit*. Johannesburg: Afrimap/Open Society Initiative for Southern Africa.

Verweijen J. 2015. The disconcerting popularity of popular in/justice in the Fizi/Uvira region, eastern Democratic Republic of the Congo. *International Journal on Minority and Group Rights* 22(3): 335–339 (open access)
<http://booksandjournals.brillonline.com/content/journals/10.1163/15718115-02203003>

De Villers G, Jewsiewicki B and Monnier L (eds)2002. *Manières de vivre. Économie de la 'débrouille' dans les villes du Congo/Zaïre*. Tervuren: l'Institut Africain-CEDAF, Paris: l' Harmattan.

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